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Security Council

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Letter dated 11 March 2009 from the Permanent Observer of the League of Arab States to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith resolution 7016, adopted by the Council of the League of Arab States at its meeting held at the ministerial level during its 131st ordinary session (Cairo, 1-3 March 2009), concerning the occupation by Iran of the three Arab islands in the Arabian Gulf belonging to the United Arab Emirates: the Greater Tunb, the Lesser Tunb and Abu Musa (see annex). This important matter should remain on the agenda of the Security Council until Iran terminates its occupation of the three islands and the United Arab Emirates restores its complete sovereignty over the islands.

I should be grateful if, pursuant to Article 54 of the Charter of the United Nations, you would arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Yahya **Mahmassani**
Ambassador

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Annex to the letter dated 11 March 2009 from the Permanent Observer of the League of Arab States to the United Nations addressed to the President of the Security Council

[Original: Arabic]

The occupation by the Islamic Republic of Iran of the three Arab islands in the Arabian Gulf belonging to the United Arab Emirates: the Greater Tunb, the Lesser Tunb and Abu Musa

The Council of the League at the ministerial level,

Having considered:

The note of the General Secretariat,

The report on the activities of the General Secretariat between sessions,

The recommendation of the Political Affairs Committee,

Guided by the decisions of the previous summit, the last of which was decision 418 of the Damascus Summit (20th ordinary session) dated 30 March 2008, concerning the occupation by the Islamic Republic of Iran of three Arab islands in the Arabian Gulf, namely, the Greater Tunb, the Lesser Tunb and Abu Musa, which belong to the United Arab Emirates,

Reaffirming its earlier decisions on the same matter, the most recent of which was decision 6939 (130th ordinary session) of 8 September 2008,

Decides

1. To reaffirm without qualification the absolute sovereignty of the United Arab Emirates over its three islands of the Greater Tunb, the Lesser Tunb and Abu Musa and to support all peaceful measures and means adopted by the United Arab Emirates to regain its sovereignty over the occupied islands;

2. To denounce the continued consolidation by the Iranian Government of its occupation of the three islands and its violation of the sovereignty of the United Arab Emirates, which can only undermine security and stability in the region and pose a threat to international peace and security;

3. To condemn the building by the Islamic Republic of Iran of housing facilities to settle Iranians on the three occupied Arab islands;

4. To condemn the Iranian military manoeuvres being conducted also on the three occupied islands of the United Arab Emirates, namely, the Greater Tunb, the Lesser Tunb and Abu Musa, and in those islands' territorial waters, airspace, continental shelf and exclusive economic zone, which constitute an inseparable part of the United Arab Emirates; and to request that the Islamic Republic of Iran desist from such violations and acts of provocation, which constitute interference in the internal affairs of an independent, sovereign State; do not promote confidence-building; threaten security and stability in the region; and endanger the security and safety of regional and international navigation in the Arabian Gulf;

5. To appeal once again to the Iranian Government to end its occupation of the three islands of the United Arab Emirates, refrain from trying to impose a fait

accompli by force, desist from establishing any installations there for the purpose of modifying the islands' demographic structure, revoke all measures and remove all installations unilaterally executed by the Islamic Republic of Iran on the three Arab islands, inasmuch as such measures and claims are null and void, lack any legal effect, do not detract from the established right of the United Arab Emirates over its three islands and are acts that run counter to the provisions of international law and the Geneva Conventions of 1949; and to call upon the Iranian Government to adopt peaceful means for resolving the existing dispute over them in accordance with the principles and norms of international law, including agreement to refer the matter to the International Court of Justice;

6. To express the hope that the Islamic Republic of Iran will reconsider its position of rejecting the effort to find a peaceful solution to the issue of the three occupied islands of the United Arab Emirates either through direct, earnest negotiations or through recourse to the International Court of Justice;

7. To call upon the Islamic Republic of Iran to translate its stated desire for improved relations with the Arab countries and for dialogue and détente into concrete steps, both in word and in deed, in the form of a genuine response to the earnest appeals launched by His Highness Sheikh Khalifa Bin Zayed Al Nahyan, President of the United Arab Emirates, and by the States members of the Gulf Cooperation Council, the Arab States, international groups, friendly nations and the Secretary-General of the United Nations, calling for a solution to the dispute over the three occupied islands by peaceful means in accordance with customary practice and the covenants and rules of international law, either through direct, earnest negotiations or through recourse to the International Court of Justice, with a view to building trust and enhancing security and stability in the Arabian Gulf region;

8. To have all Arab States undertake, in their contacts with the Islamic Republic of Iran, to raise the issue of that country's occupation of the three islands in order to stress the need to end it, based on the fact that the three islands are occupied Arab territory;

9. To inform the Secretary-General of the United Nations and the President of the Security Council of the importance of maintaining the issue on the list of matters of which the Security Council is seized until the Islamic Republic of Iran ends its occupation of the three Arab islands and the United Arab Emirates regains its full sovereignty over them;

10. To request the Secretary-General to follow up this matter and report to the Council at its next session (Decision 7016 — 131st ordinary session — meeting 2-3 March 2009).

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Security Council

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Report of the Secretary-General pursuant to Security Council resolution 1846 (2008)

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1846 (2008) of 2 December 2008, in which the Council requested that I report on ways to ensure the long-term security of international navigation off the coast of Somalia, including the long-term security of World Food Programme (WFP) maritime deliveries to Somalia, and a possible coordination and leadership role for the United Nations in this regard to rally Member States and regional organizations to counter piracy and armed robbery at sea off the coast of Somalia.

2. In order to arrive at the following assessment and recommendations, I have relied on information provided to me by Member States, the European Union (EU) and the North Atlantic Treaty Organization (NATO). In addition to consultations carried out within the United Nations with the relevant departments, offices, funds and programmes, the Secretariat consulted with the International Maritime Organization (IMO), the International Criminal Police Organization (INTERPOL), the Monitoring Group on Somalia pursuant to Security Council resolution 1811 (2008) and the United Nations Interregional Crime and Justice Research Institute (UNICRI).

3. The report studies the piracy situation, examines the political, legal and operational activities that have been undertaken by Member States, regional organizations, the United Nations and its partners in the fight against piracy and armed robbery at sea off the coast of Somalia and concludes with observations on ways in which the long-term security of international navigation off the coast of Somalia, including seaborne humanitarian deliveries to Somalia, can be secured and outlines the role that the United Nations can play at this stage. During the reporting period, there was an increase in the number of Member States undertaking maritime military operations off the coast of Somalia.

II. Reported incidents of piracy off the coast of Somalia

4. On 16 January 2009, the International Maritime Bureau reported an unprecedented 11 per cent worldwide increase in the number of incidents of piracy or armed robbery at sea against ships in 2008. Of the 293 incidents the Bureau recorded for the year, 111 occurred off the coast of Somalia. This represents an

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annual increase of nearly 200 per cent in the critical trade corridor linking the Suez Canal and the Indian Ocean and merits closer consideration. In September 2008, the NATO Shipping Centre noted an increase in activity, which was maintained to the end of the year. In comparison to 2007, incidents of piracy and armed robbery at sea in 2008 trebled. As at the end of February 2009, there had been seven reported incidents of piracy and/or armed robbery at sea in this region in 2009.

5. It is reported that the most prominent pirate militias today have their roots in the fishing communities of the Somali coast, especially in north-eastern and central Somalia, and that their organization reflects Somali clan-based social structures. There are two main piracy networks in Somalia: one in "Puntland" and the other based in the southern Mudug region. It is also reported that in "Puntland", the most important pirate group is located in the Eyl district, with other smaller groups operating from Bossaso, Qandala, Caluula, Bargaal and Garacad. By the end of 2008, the "Eyl Group" was holding hostage six vessels and their crew and was expected to have earned approximately $30 million in ransom payments. The "Mudug piracy network" operates from Xarardheere. It was this group that held the MV *Faina*, together with three other ships, for a period of approximately five months from September 2008 to February 2009. It is widely acknowledged that some of these groups now rival established Somali authorities in terms of their military capabilities and resource bases.

6. The NATO Shipping Centre cites four main areas from which current piracy operations are conducted:

(a) For ships seized in the Gulf of Aden, the Aluula Pirate Refuge Port is sometimes the first port of call for pirates, as a base for re-supply before carrying on to main pirate home port bases in Eyl, Hobyo and Xarardheere. This is also one of the few coastal villages with a usable flat dirt airstrip;

(b) The Gulf of Aden and Mogadishu pirate attack zones are served by "mother ships" based in Bossaso and Mogadishu, and in Al Mukallah and Al Shishr in Yemen;

(c) Ships hijacked in the Gulf of Aden and Indian Ocean are anchored near Eyl and Hobyo, where on-shore support networks supply pirates and hostages with food and supplies pending ransom payments and release;

(d) The Xarardheere Pirate base, largely under the control of the Suleiman/Habar clan, is also linked to piratical acts in this region.

7. There are increasing reports of complicity by members of the Somali region of "Puntland" administration in piracy activities. However, it is encouraging to note that both the former and the current leadership of "Puntland" appear to be taking a more robust approach in the fight against piracy and armed robbery at sea off the coast of Somalia. In December 2008, the former leader of "Puntland", Adde Musa, informed the Monitoring Group on Somalia that he had sacked several officials for their involvement in piracy. In September and October 2008, "Puntland" security forces conducted at least two operations to free hijacked ships. On 8 January 2009, it was reported that Abdurahman Mohamed Faroole, leader of the region of "Puntland", declared the fight against piracy off the coast of "Puntland" a top priority for his administration.

III. International cooperation to address piracy off the coast of Somalia

8. In 2008 Member States held several high-level meetings to discuss regional or international coordinated approaches to the fight against piracy off the coast of Somalia and commenced operational anti-piracy activities in the region.

9. The League of Arab States held an extraordinary session of the Arab Peace and Security Council in Cairo on 4 November 2008, to examine the issue of piracy and armed robbery at sea off the coast of Somalia. The meeting issued a number of recommendations, condemned all instances of piracy and armed robbery at sea, called for closer cooperation with the Government of Somalia, and consultation, coordination and information exchange between Arab States and the relevant organizations and specialized agencies, including the Arab Sea Ports Federation, the International Maritime Organization, the United Nations and the African Union.

10. On 11 December 2008, an International Conference on Piracy around Somalia, co-chaired by the Government of Kenya and my Special Representative to Somalia, was convened in Nairobi at the ministerial level for regional actors. The Conference welcomed the efforts of regional Member States and organizations to establish means of cooperation in the fight against piracy. Participants resolved to cooperate with each other and with regional and international organizations, to combat piracy at sea and address the root causes on land. In this regard, the Conference noted in its communiqué that "the strengthening and enlarging of the Transitional Federal Institutions and the urgent improvement of the security situation on land are critical to reducing piracy off Somalia". I am encouraged by the willingness of the officials from the Transitional Federal Government, the Alliance for the Re-Liberation of Somalia and the Somali regions of "Puntland" and "Somaliland" at this meeting to agree to create a working group in the near future that would examine the way in which Somalia could work together with the international community to eradicate piracy and armed robbery at sea from their shores.

11. Pursuant to the initiative announced by former United States Secretary of State Condoleezza Rice, on 16 December 2008, the United States convened the first meeting of the Contact Group on Piracy Off the Coast of Somalia in New York on 14 January 2009; 23 Member States and five intergovernmental organizations participated in the meeting. The Contact Group established four working groups to examine the following areas: activities related to military and operational coordination and information sharing and the establishment of the regional coordination centre; judicial aspects of piracy, including the detention and prosecution of those apprehended for acts of piracy or armed robbery at sea against ships; the strengthening of shipping self-awareness and other capabilities; and improving diplomatic and public information efforts on all aspects of piracy. The working groups met in February and March and are scheduled to inform a second meeting of the Contact Group to be scheduled in March 2009.

12. The International Maritime Organization held a high-level meeting from 26 to 29 January 2009 in Djibouti, where 17 regional States adopted the Djibouti Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden. This followed an intense preparatory process involving three IMO-sponsored events in the region, which addressed threats against the security of ships and port facilities, including acts of

piracy and armed robbery. The Djibouti Code of Conduct, which immediately came into force with the formal signatures of nine regional States, provides for cooperation and coordination mechanisms in the region in the suppression of piracy and armed robbery at sea, including shared operations. The signatories intend to ensure that the Code of Conduct facilitates the establishment of a regional mechanism of cooperation for anti-piracy activities and the setting up of information sharing centres to be located in the regional Maritime Rescue Coordination Centre in Mombasa, Kenya, the Sub-Regional Coordination Centre in Dar es Salaam, United Republic of Tanzania, and a regional maritime information centre, which is being established in Sana'a, in addition to a related training centre in Djibouti.

13. On 28 January, UNICRI also organized a high-level meeting in Turin, Italy, to launch a global applied research programme on the fight against maritime piracy.

IV. Operational activities off the coast of Somalia

14. Member States, individually and collectively, are also conducting operational anti-piracy efforts off the coast of Somalia. The Gulf of Aden is currently being patrolled by one of the largest anti-piracy flotillas in modern history. These activities are supported by an adequate legal framework, including the United Nations Convention on the Law of the Sea and Security Council resolutions 1814 (2008), 1816 (2008), 1838 (2008), 1846 (2008) and 1851 (2008).

A. Notifications to the Transitional Federal Government of Somalia

15. Since my last report on the situation in Somalia (S/2008/709), the United Nations Secretariat has received confirmation from the Permanent Mission of Somalia to the United Nations that to date the following Member States and regional organizations have transmitted advance notifications of their cooperation with the Transitional Federal Government in the fight against piracy and armed robbery at sea off the coast of Somalia: Canada, India, China, the Russian Federation, Turkey, the United States of America, the European Union and NATO. The Secretariat also received confirmation from the Permanent Mission of Somalia to the United Nations that Denmark, France, the Netherlands, Spain, and the United Kingdom of Great Britain and Northern Ireland have transmitted advance notifications of their cooperation with the Transitional Federal Government in this regard. These advance notifications were received prior to the EU NAVFOR Somalia — Operation Atalanta (EU Operation Atalanta) achieving initial operational capacity on 13 December 2008.

16. During the reporting period, Canada and the Netherlands informed me of the completion of their active anti-piracy operations off the coast of Somalia, with escorts earlier being provided by the Governments of France and Denmark. On 1 September 2008, the Transitional Federal Government had advised me that it authorized the Government of Canada to escort and protect shipping involved with the transportation and delivery of humanitarian aid to Somalia, in accordance with Security Council resolutions 1814 (2008) and 1816 (2008). That mandate expired on 23 October 2008. At the conclusion of its mandate in the region, the Government of Canada provided naval escorts to WFP-contracted ships carrying food aid to Somalia, which safely delivered approximately 45,000 tons of humanitarian assistance. On 20 October 2008, the Transitional Federal Government informed me

that the Government of the Netherlands was prepared to deploy HMS *De Ruyter* to the coastal region of Somalia from 23 October to mid-December 2008, for the purpose of escorting WFP-contracted vessels carrying humanitarian assistance to Somalia, the second deployment of Dutch naval escorts for WFP shipments. I have been informed by the Permanent Mission of the Netherlands that the *De Ruyter* mission handed over its duties to EU Operation Atalanta on 10 December 2008, having escorted eight WFP transports to Somalia containing 59,405 tons of humanitarian assistance.

17. Of those Member States that have provided the Transitional Federal Government with advance notification of their activities in the fight against piracy and armed robbery at sea off the coast of Somalia and are still operating in the region, the Secretariat has received updated information from the Permanent Missions to the United Nations of Denmark, India, China, the Russian Federation and Spain.

18. On 19 December 2008, the Secretariat received information from the Permanent Mission of Denmark to the United Nations on the anti-piracy activities of the Government of Denmark. Denmark has provided military escorts to vessels delivering WFP assistance to Somalia, and, as of 19 December 2008, was engaged in international efforts against piracy in the region, particularly as the leader of the naval Combined Task Force-150 (CTF-150).

19. In October 2008, the Government of India provided the Transitional Federal Government with advance notification of its intention to assist in combating piracy off the coast of Somalia. On 6 February 2009, the Permanent Mission of India to the United Nations advised the Secretariat of the activities conducted by the Indian Navy off the coast of Somalia. Since 23 October 2008, the Indian Navy has maintained at least one ship in the region providing protection to Indian and foreign-flagged ships sailing through the waters in the Gulf of Aden. The Indian Navy is engaged in exchange of information with other multinational forces deployed in the area. In addition, India has established a Communications Centre situated within the Directorate General of Shipping of India. This Centre coordinates the provision of naval escorts by the Indian Navy in the Gulf of Aden to both Indian and foreign vessels requesting such assistance.

20. Subsequent to advance notification to the Transitional Federal Government in December 2008, on 6 February 2009, the Permanent Mission of China to the United Nations informed the Secretariat that, on 26 December 2008, the Government of China dispatched two destroyers and one supply vessel to take up escort duties in the Gulf of Aden and off the coast of Somalia. These vessels commenced continuous escort operations on 6 January 2009, which included the provision of escort missions to Chinese and foreign-flagged vessels sailing off the coast of Somalia and in the Gulf of Aden. During this reporting period, the Chinese escort formation has engaged in cooperative exchanges of intelligence with naval vessels of other Member States operating in the region.

21. On 4 February 2009, the Permanent Mission of Spain to the United Nations informed the Secretariat that on 23 January 2009, the Government of Spain approved the military participation of Spain in EU Operation Atalanta. Spain will take over from Greece as the Force Commander of this Operation in April 2009. Prior to joining EU Operation Atalanta, a Spanish patrol plane continued its patrolling activities off the coast of Somalia in coordination with the EU NAVOC

coordination cell of the European Union. During the reporting period, Spain has been actively involved in political discussions held in the Horn of Africa and at the international level on ways to combat piracy off the coast of Somalia.

22. On 13 March 2009, the Secretariat was informed by the Permanent Mission of Japan to the United Nations that, on the same day, the Prime Minister, Taro Aso, had made a statement concerning two Cabinet decisions by the Government of Japan related to anti-piracy activities off the coast of Somalia. The statement referred to a decision on the draft Law on the Penalization of Acts of Piracy and Measures against Acts of Piracy and a decision on approval to send the Japanese Self-Defence Forces, on an emergency and temporary basis, to conduct anti-piracy activities off the coast of Somalia and in the Gulf of Aden, based on the maritime security operations stipulated in the Self-Defence Law. The Self-Defence Forces were expected to depart on 14 March 2009.

23. On 11 February 2009, the Permanent Mission of Malaysia to the United Nations informed the Secretariat that the Government of Malaysia had dispatched in stages five Royal Malaysian Navy vessels to the Gulf of Aden to render assistance in efforts seeking the early release of captured Malaysian-flagged vessels and to provide protective escort mainly to other Malaysian-flagged vessels in the region. The Royal Malaysian Navy is engaged in exchange of information with other multinational forces deployed in the area.

24. On 25 February 2009, the Permanent Mission of the Russian Federation informed me of the operations of the Russian naval fleet to protect Russian vessels and citizens from acts of piracy and armed robbery at sea off the coast of Somalia and in the Gulf of Aden since October 2008. In this regard, the Russian naval fleet ensures the safety of navigation and of other types of maritime economic activities of the Russian Federation off the coast of Somalia. In the performance of this task since October 2008, collaboration has been established with the naval ships of China, France, India, the United States of America, Combined Task Force-151 (CTF-151) and EU Operation Atalanta.

B. Multinational maritime operations

25. During the reporting period, four multinational maritime coalitions have contributed to the fight against piracy off the coast of Somalia: NATO, CTF-150, CTF-151 and EU Operation Atalanta.

26. It will be recalled from my last report (S/2008/709), that, further to a decision dated 9 October 2008 by NATO Defence Ministers, NATO deployed seven ships from its Standing Maritime Group 2 to take on an anti-piracy role off the coast of Somalia. In a letter dated 21 October 2008, the Transitional Federal Government informed the Secretariat that it had authorized NATO to provide naval escorts to WFP-chartered vessels and to undertake their mandated anti-piracy functions in the region, which may have required NATO vessels to enter Somali territorial waters. In addition, on 23 October 2008, the Transitional Federal Government advised that it had authorized NATO to provide naval escorts to one ship transporting critical supplies through Somali waters to Mogadishu in support of the African Mission in Somalia (AMISOM). These ships took part in NATO Operation Allied Provider from 24 October 2008 to 12 December 2008. NATO handed over its piracy Operation to EU Operation Atalanta. At the conclusion of its mandate, Operation

Allied Provider had ensured the safe delivery of approximately 30,000 tons of humanitarian aid to Somalia.

27. In my last report, I noted that the European Union intended to launch a naval operation conducted within the framework of the European Security and Defence Policy, off the coast of Somalia by December 2008. On 10 November 2008, in accordance with Security Council resolutions 1814 (2008), 1816 (2008) and 1838 (2008), the Council of the European Union adopted decision 2008/851/CFSP, mandating the launch of a naval military operation, referred to as EU NAVFOR Somalia — Operation Atalanta, from 2 December 2008, for a period of 12 months. This Operation formed part of the European Union contribution to the deterrence, prevention and repression of piracy and armed robbery at sea off the coast of Somalia. The Operation, which achieved initial operational capacity on 13 December 2008, currently comprises five frigates and two maritime patrol aircrafts, as well as approximately 1,200 staff.

28. The mandate of this military operation includes but is not limited to the protection of WFP-contracted vessels carrying humanitarian assistance to Somalia, the protection of vulnerable vessels sailing off the coast of Somalia, bringing to an end acts of piracy and armed robbery at sea which may be committed in areas where EU Operation Atalanta is present, and the general deterrence, prevention and repression of acts of piracy and armed robbery at sea. At the time of writing this report, EU Operation Atalanta had enabled the safe delivery of nearly 76,000 tons of humanitarian assistance. As part of their efforts to enable future in-theatre coordination, the European Union has approved cooperative frameworks and measures with naval units from third States also conducting anti-piracy activities off the coast of Somalia.

29. On 17 February 2009, the European Union informed the Secretariat that it had also entered into bilateral arrangements with certain regional States during the reporting period, to give further effect to their coordinated efforts to fight piracy off the coast of Somalia. On 29 November 2008, the European Union entered into an agreement with Somalia in relation to access to its territorial waters. Similar agreements were concluded with Kenya and Djibouti on 4 December 2008 and 1 December 2008, respectively. On 24 November 2008, Ethiopia also concluded an agreement with the European Union concerning over-flight arrangements for aircraft servicing European Union Operation Atalanta.

30. As part of the Combined Maritime Forces in the region, CTF-150 and CTF-151 have conducted counter-piracy operations in and around the Gulf of Aden, the Arabian Sea and the Indian Ocean. CTF-150 was the first multinational naval force to contribute to the fight against piracy off the coast of Somalia, operating from late 2008 to 11 January 2009. Under the rotating command of the United States, Denmark and Germany, this Combined Task Force had a focused role in counter-piracy operations off the coast of Somalia. CTF-150 passed on its anti-piracy role to CTF-151 on 22 January 2009. The United States launched CTF-151 to conduct counter-piracy operations in and around the Gulf of Aden, the Arabian Sea and the Indian Ocean. As opposed to the other forces that make up the Combined Maritime Forces, CTF-151 is mission specific with no geographical restrictions, and is designed to create a dedicated international structure combining military force, intelligence sharing and coordinated patrols. At the time of writing this report, the Secretariat had no confirmed reports as to the membership of the

CTF-151 coalition, save for Turkey, which, on 2 February 2009, indicated to the United Nations Secretariat its intention to join this coalition force. During the reporting period under review, CTF-150 and CTF-151 conducted their operations in coordination with other Member States and regional organizations with anti-piracy operations in the region.

31. Currently EU Operation Atalanta and CTF-151, in collaboration with the United Kingdom Maritime Trade Organization (UKMTO), are conducting group transits in the internationally recommended UKMTO transit corridor through the Gulf of Aden.

V. Further efforts to safeguard international navigation

32. In an effort to safeguard merchant shipping operating in the region, EU Operation Atalanta has established a Maritime Security Centre (Horn of Africa) to provide information and guidance to the shipping community. The Centre's website, created in December 2008, offers the shipping community a secure facility to register details of their vessels, update their vessels' positions and receive information and guidance designed to reduce the risk of pirate attacks. I am informed that of the 1,500 vessels tracked using this service, none has yet been victim to piracy in this region.

33. In addition, IMO periodically issues Maritime Safety Committee circulars to the shipping community on preventative security measures to deter and prevent piratical attacks, and is currently updating its guidance circulars to Governments, shipowners, ship operators, shipmasters and crews, as well as its Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships, while continuing to provide technical assistance to States to build institutional and legal capacity for counter-piracy operations. As part of the efforts to further enhance situational awareness, I have received additional details from IMO regarding the provision of a vessel tracking system to Yemen by Italy and the development of three piracy information exchange centres in Kenya, the United Republic of Tanzania and Yemen, together with a related training centre in Djibouti.

VI. Assistance provided to the World Food Programme

34. In 2008, WFP delivered approximately 260,000 tons of humanitarian assistance to Somalia, quadrupling the amount delivered in 2007, to cover food and nutrition assistance programmes for 2.4 million people. In four years, the humanitarian assistance delivered to Somalia has increased eightfold. There has been no demonstrable improvement in the overall situation in Somalia in recent months that would suggest that the level of assistance to be provided by WFP will decrease in the near future. On the contrary, preliminary results from a recently concluded food security assessment indicate more than 3.1 million individuals, including some newly displaced populations, continue to face an acute food, nutrition and livelihood crisis. The worst affected areas are in southern and central Somalia. Ensuring that aid flows continue uninterrupted is essential to meeting the urgent needs of affected populations and averting a further deterioration in the humanitarian situation, which could potentially result in further displacement and insecurity.

35. Ninety-five per cent of the humanitarian supplies of WFP arrive by sea, predominately from Mombasa to the southern ports of Mogadishu and Merka, and from Djibouti to the northern ports of Bossaso and Berbera. The security protection provided to WFP-contracted vessels is distinct from the main naval effort to deter and disrupt pirates. Prior to November 2007, a system of informal coordination and information sharing existed among IMO, NATO and WFP. In late 2007, following the attacks on a WFP-contracted vessel and an increase in piracy and armed robbery at sea off the coast of Somalia and consistent advocacy and awareness-raising of the piracy risk by the Executive Director of WFP and the Secretary-General of IMO, supported by my office, Member States stepped forward to provide protective escorts for humanitarian shipments to Somalia. This was endorsed in Security Council resolution 1816 (2008).

36. Protective escorts were provided to WFP-contracted vessels on a temporary basis from mid-November 2007 to December 2008, ensuring protection for 47 voyages of WFP shipments carrying approximately 252,000 tons of humanitarian aid, including cargo shipped on behalf of the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the Food and Agriculture Organization of the United Nations (FAO) and various non-governmental organizations. A total of 57 shipments have been undertaken through February 2009. During that period, no escorted WFP-contracted vessels were subjected to attack. According to information available to me at the time of writing this report, EU Operation Atalanta is currently providing the most long-term guaranteed arrangement thus far to secure the security of WFP supplies to Somalia until December 2009. China and India have also informed me that their naval forces will provide assistance to WFP-contracted vessels as requested.

37. The obvious threat to the long-term security of WFP maritime supplies is piracy and armed robbery at sea off the coast of Somalia. This has a direct impact on the relationship between WFP and those with whom they contract to deliver their humanitarian supplies. Without secure and guaranteed protective escort, WFP will face difficulties in securing vessels that will accept to deliver their supplies to the region.

38. One aspect that could benefit from further consideration would be the engagement of Member States in the region that have small but effective navies. In order to effectively utilize the resources of Member States, I would recommend that Member States consider employing the services of these navies to complement current protective escorts to WFP-contracted vessels, thereby potentially freeing up some naval assets to actively pursue deterrence and disruption anti-piracy activities in the region. A clear delineation between the naval assets providing escorts to WFP and those involved in other types of anti-piracy activities would be advisable, given the humanitarian nature of the activities. The recent escorts provided have been effective in deterring pirates; however, the challenge will be to maintain long-term continuity.

VII. Long-term security of international navigation

39. As noted in my report to the General Assembly of 10 March 2008 on oceans and the law of the sea (A/63/63), further action is required in particular to enhance the effectiveness of the international framework related to maritime security. Any

measures taken in both the short and long term to combat piracy and armed robbery off the coast of Somalia will require an integrated approach that incorporates support of the peace process; strengthening of capacity on land, such as support to AMISOM and the Somali security forces; strengthening of legal and maritime institutions such as the Somali and regional coastguards; addressing the lack of accountability by apprehending and prosecuting those suspected of acts of piracy and armed robbery at sea; strict compliance with arms embargoes in pursuance of the relevant Security Council resolutions; and peacebuilding efforts to empower local communities. To ensure a multifaceted approach, it will be necessary to involve Somali authorities in the coordination of these efforts.

40. At the political level, regional Member States adopted the communiqué of the International Conference on Piracy around Somalia and the Djibouti Code of Conduct. These political efforts demonstrate the determination of Member States to establish a coordinated mechanism to address the maritime security challenges in the region. At the international level, a political coordination role has been assumed by the Contact Group, which has brought affected Member States and international organizations together to discuss coordinated approaches to the increase in acts of piracy and armed robbery at sea off the coast of Somalia.

41. With the introduction of EU Operation Atalanta, CTF-151 and the various initiatives carried out by the individual Member States and intergovernmental organizations such as IMO, the fight against piracy has dramatically evolved towards the development of a cooperative anti-piracy approach. Member States have created regional and international networks of maritime assistance with partners with existing resources, developing a complex and comprehensive infrastructure with regional and international participation.

42. On the operations front, the Contact Group is considering the establishment of a coordination centre in the region. In addition, the signatories of the Djibouti Code of Conduct, with support from IMO, have resolved to establish national focal points and regional information-sharing centres in Yemen, Kenya and the United Republic of Tanzania, together with a training centre in Djibouti. These efforts would complement the already existing coordination efforts by the European Union in the form of EU Operation Atalanta, the coordination centre in Bahrain that manages the activities of CTF-151, and the individual bilateral cooperation agreements between Member States.

43. While all of the above-mentioned efforts pave the way for a lasting solution to the problem of piracy off the coast of Somalia, it is imperative that any long-term effort to address the lawlessness at sea incorporate the current political and operational anti-piracy activities with support for the efforts of AMISOM and the Somali security initiatives detailed in my report on the situation in Somalia dated 9 March 2009 (S/2009/132). This will require an understanding of the situation on the ground, the organization of the pirates and their bases of support, the role of the local communities and the alleged involvement of Somali authorities in south central Somalia and "Puntland".

44. Also relevant are the observations and decisions highlighted in other international forums. For example, during the ninth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, held in June 2008, several Member States observed that dealing effectively with the land-based causal factors for piracy and armed robbery at sea had led to a decrease in the

number of incidents, and highlighted the need to address the conditions conducive to piracy and armed robbery at sea (see A/63/174). The outcome of this meeting was considered by the General Assembly in the context of its annual resolution on oceans and the law of the sea (resolution 63/111). It will be recalled from my last report that the surge in piracy and armed robbery at sea against ships along the coast of Somalia, particularly in "Puntland", was having an adverse effect on trade in the ports. It is my view that capacity and peacebuilding efforts that empower local communities to earn a sustainable livelihood will weaken their reliance on the proceeds of piratical acts and ensure that in the long term piracy does not continue to entrench itself into the social fabric of the society.

45. It is relevant to note that the problem of piracy and armed robbery at sea will affect the delivery of the United Nations logistical support package to AMISOM as proposed in my letter to the Security Council dated 19 December 2008 (S/2008/804) and endorsed by the Council in its resolution 1863 (2009) of 16 January 2009. The bulk of this logistical support is to be delivered to AMISOM by sea. In order that the United Nations may be in a position to provide AMISOM with the support it requires, it is imperative that it is able to enlist guaranteed and reliable protection for its merchant ships, including those used by United Nations commercial contractors, going in and out of Mogadishu. I encourage Member States to consider the provision of guaranteed protective escorts to these United Nations contracted vessels, in addition to and separate from the escorts required for the WFP shipments.

VIII. Strengthening regional maritime and legal capacity

46. In the absence of adequate domestic legislative regimes in the States of the region, in particular the littoral States of the Indian Ocean and the Gulf of Aden, sole reliance on international instruments will prove insufficient to combat piracy and armed robbery at sea off the coast of Somalia. In my report on oceans and the law of the sea to the General Assembly (A/63/63), I highlighted the legal framework for the repression of piracy contained in the United Nations Convention on the Law of the Sea and recalled that although instruments such as the United Nations Convention on the Law of the Sea benefit from broad participation, other instruments relating to maritime security require further participation to enhance their effectiveness. The Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs has an ongoing mandate to assist States in the uniform and consistent application of the provisions of the United Nations Convention on the Law of the Sea.

47. The question of the arrest, detention and prosecution of those suspected of having committed the crime of piracy or armed robbery at sea off the coast of Somalia has raised interesting legal challenges. This matter will be explored further bilaterally by certain Member States with regional States, regionally as illustrated in the International Conference on Piracy around Somalia and the Djibouti Code of Conduct, and in a multinational context, inter alia, within the Contact Group on Piracy Off the Coast of Somalia. In all discussions, there is common agreement to establish a coherent and effective legal mechanism, consistent with the applicable provisions of the United Nations Convention on the Law of the Sea, that will ensure that persons suspected of committing or attempting to commit acts of piracy or armed robbery at sea are apprehended and prosecuted. Also to this end, IMO is compiling an inventory of Member States' related legislation and already preparing

technical assistance to requesting States to develop or update their national anti-piracy legislation.

48. The lack of enforcement capacity and resources to address the problem of piracy off the coast of Somalia, however, are of major concern not only to Somalia, but to some of the other most affected littoral States of the Indian Ocean and the Gulf of Aden. This highlights the need to identify an integrated approach between the operational responses at sea and those on land. In the long run, this can be achieved with a stable Somali Government capable of effectively controlling its territory and seas. As a first step, however, I recommend that consideration be given to establishing within the Somali law enforcement authorities an effective response capability against piracy and, in particular, armed robbery at sea. Consideration should also be given to strengthening regional capacity to address piracy and armed robbery at sea and encouraging greater regional cooperation, in line with the commitments made by States in the Djibouti Code of Conduct. In the long term, this could be addressed within my plan to strengthen AMISOM and assist the Transitional Federal Government and the Alliance for the Re-Liberation of Somalia in developing and coordinating a coherent strategy to build Somalia's Transitional Security Forces and Police, rule of law and correctional facilities. Member States may also consider providing further support to United Nations peacebuilding and response capacities efforts to the relatively stable areas of "Somaliland" and "Puntland". In my regular report on the situation in Somalia, I will present in full the findings of the technical assessment mission to Nairobi and Addis Ababa, which develops further the recommendations contained in my letter of 19 December 2008.

49. In accordance with its resolution 1816 (2008), the Security Council called upon States and interested organizations, including IMO, to provide technical assistance to Somalia and nearby coastal States upon their request to enhance the capacity of these States to ensure coastal and maritime security, including combating piracy and armed robbery at sea off the Somali and nearby coastlines. IMO, the United Nations Office on Drugs and Crime (UNODC) and UNDP, among others, have already begun to answer this call by proposing capacity-building and/or technical assistance programmes in the region. In addition, UNODC, pursuant, inter alia, to its mandate under Security Council resolution 1851 (2008) and in coordination with the Office of Legal Affairs, IMO, UNDP and other relevant international entities, will provide training and technical assistance, upon request and subject to the availability of funds, to countries in the Horn of Africa and the western Indian Ocean region to support the arrest, transfer, detention and prosecution of offences committed by pirates in violation of international laws within the mandate of UNODC.

50. It is important that States put in place laws and regulations at the national level to facilitate the interception and boarding of ships suspected of engaging in acts of piracy or armed robbery at sea, to the extent authorized under the relevant international legal instruments, as well as the investigation and prosecution of suspected offenders. In this regard, the European Union has informed me of the current negotiations to conclude an agreement with Kenya on the condition and modalities for the transfer of persons suspected of having committed acts of piracy or armed robbery at sea in the territorial waters of Somalia and detained by Operation Atalanta. Capacity-building of national legal institutions, in the form of training programmes, including training of law enforcement detachments and shipriders, legislative guides and model laws will facilitate the establishment of

strong national legal frameworks to enable the effective transfer of captured pirates to States in the region for prosecution. Such programmes should include benchmarks for due process and judicial representation.

51. Effective enforcement of the relevant international legal instruments and the implementation of robust national legislation will play a key role in the restoration and preservation of the long-term security of international navigation in this region.

52. As noted by the NATO Shipping Centre, "Puntland" is a significant area from which piracy operations are conducted. The "Puntland" Coastguard, established in 2000, has an estimated strength of 300 personnel and up to 8 armed ocean-going vessels. Although in 2003 there were concerns that the Coastguard provided legitimacy for sanctions-busting by local authorities, as of mid-2008, the Coastguard has demonstrated limited but growing effectiveness in its operations against pirate groups operating in "Puntland" coastal waters. In the interests of a durable solution to piracy and armed robbery at sea off the coast of Somalia, it is important that local coastguards in the region, where possible, are assisted in ways that will enable them to constructively play a role in the anti-piracy efforts conducted off the coast of Somalia and the surrounding region. As part of a long-term strategy to promote the closure of pirates' shore bases and effectively monitor the coastline, I therefore recommend that Member States consider strengthening the capacity of the Coastguards both in Somalia and the region.

IX. Coordination and leadership role of the United Nations

53. Pursuant to Security Council resolutions 1816 (2008), 1838 (2008) and 1846 (2008) and General Assembly resolution 62/215, the focal point in the United Nations Political Office for Somalia (UNPOS) should continue to collate information received by the Secretariat from Member States and regional and international organizations, as required, to meet my reporting obligations to the Security Council and the General Assembly. In addition, UNPOS will continue to liaise with Member States and regional organizations to receive and share naval information related to anti-piracy activities being conducted off the coast of Somalia. This includes representing the Secretary-General at meetings on matters concerning piracy and armed robbery at sea off the coast of Somalia.

54. The United Nations Secretariat, through its assistance to the Security Council and the General Assembly, its capacity-building and humanitarian assistance functions and its provision of advice and information to States and international organizations, is playing an important role in the repression of piracy and armed robbery at sea off the coast of Somalia. Nevertheless, given that the United Nations is not involved in the actual military operations against piracy and armed robbery at sea off the coast of Somalia, and considering that Member States and regional organizations are already putting in place the necessary coordination mechanisms and networks with the relevant partners, I recommend that the role of the United Nations Secretariat at this stage should not go beyond the fulfilment of existing mandates and the provision of a focal point for information-sharing, collating the information required from the Member States to meet reporting obligations to the Security Council and the General Assembly, and liaising with Member States and regional organizations involved in the anti-piracy operations. The magnitude and complexity of the various military operations currently conducted off the coast of

Somalia and in the Gulf of Aden in the fight against piracy and armed robbery at sea evidently require a lead role and coordination arrangements that go beyond the operational capacity and resources of the United Nations Secretariat.

X. Piracy and arms embargo-related sanctions

55. Over the past 16 years, the "general and complete arms embargo" on Somalia established by Security Council resolution 733 (1992) has been persistently and flagrantly violated, which in turn has contributed to the ready access to arms and ammunition by pirates. In seeking a long-term solution to the question of securing international navigation off the coast of Somalia, understanding the complex relationship between the growth of piracy and the non-enforcement of the Somalia arms embargo is crucial. The Monitoring Group on Somalia, in its report of 10 December 2008 (S/2008/769), highlighted the overlap between piracy, contraband and arms trafficking across the Gulf of Aden.

56. I welcome the suggestion from the International Conference on Piracy around Somalia to, individually and collectively, place under sanctions by the African Union and the Intergovernmental Authority on Development and in accordance with Security Council resolution 1844 (2008) of 20 November 2008, Somali leaders who impede the stabilization of the country by creating conditions that breed and escalate piracy.

57. The Monitoring Group on Somalia also noted that leading figures in piracy syndicates were responsible for arms embargo violations and recommended that they should be considered for targeted sanctions. Security Council resolution 1844 (2008), by which the Council imposed travel bans, an assets freeze and arms embargoes on individuals and entities designated by the sanctions Committee, provides a real opportunity for those that violate the arms embargo to be brought to account if Somalia's international partners, wishing to build the capacity of Somali security sector institutions, demonstrate and reinforce a norm of compliance, pursuant to Security Council resolutions 1744 (2007) and 1772 (2007), through adherence to these procedures.

58. Coordinated international efforts against piracy will generate an enduring effect if coupled with the interdiction of arms trafficking off the coast of Somalia and the imposition of targeted sanctions against key pirate leaders and their sponsors. Reducing the availability of arms to pirates by implementing targeted individual sanctions and by adhering strictly to exemption procedures under Security Council resolutions will serve to remedy the lack of accountability that has reinforced the crime of piracy in this region.

XI. Observations

59. There is a critical need to tackle the problem of piracy with a multifaceted approach to ensure that the political process, the AMISOM peacekeeping efforts, the strengthening of law enforcement institutions and capacity-building initiatives work in tandem, and that the humanitarian assistance efforts of WFP and others can continue to address the urgent needs of highly vulnerable people in Somalia. In the long term, the issue of piracy and armed robbery at sea off the coast of Somalia will

be resolved only through an integrated approach that addresses the conflict, lack of governance and absence of sustainable livelihoods on land in Somalia. I encourage Member States to place an increased emphasis on the resolution of the lawlessness in Somalia through the development of the Djibouti peace process and support of AMISOM in line with the steps proposed in my letter dated 19 December 2008 and endorsed by the Security Council.

60. The building of the capacity of local and regional players will be a determining factor in identifying and implementing durable solutions to the problem of piracy and armed robbery at sea off the coast of Somalia. Such measures will understandably take time to bear fruit and I urge Member States to engage in initiatives, bilaterally or as part of a coordinated effort, to develop the capacity of the region and reduce the reliance, particularly in certain Somali communities, on the proceeds of the crime of piracy.

61. To address the lack of accountability that has led to impunity in this region, it is necessary that the international community effectively implement the existing international legal framework and consider further strengthening the legal framework at the regional and national levels to facilitate the apprehension and prosecution of those suspected of having committed piracy and armed robbery at sea off the coast of Somalia. I recommend both short- and long-term cooperative efforts that will enhance the maritime and legal capacity of Somalia and the most directly affected regional States to combat piracy. This would include increasing regional capacity with the assistance of IMO, UNODC and relevant partners to put in place effective arrangements, consistent with the United Nations Convention on the Law of the Sea and other applicable instruments to which Member States in the region are parties, to investigate and prosecute offences related to piracy and armed robbery at sea.

62. The authorities in "Puntland" have demonstrated a sincere willingness to fight piracy off their shores. I encourage Member States to support the continued efforts by the United Nations and its partners to promote the development of local governance and formulate enduring peacebuilding proposals in the relatively stable Somali regions of "Puntland" and "Somaliland".

63. In the past 12 months, the international community has witnessed the establishment of several cooperative approaches to fight against piracy on both the regional and international planes, and at the political and the military levels. This has been effectively led by willing Member States and I urge those that are able, and in compliance with the relevant Security Council resolution, to contribute to this effort. Given the sensitive military nature of the activities being undertaken and the complexity of the current coordinated operations in the waters off the coast of Somalia, I note that these arrangements go beyond the operational capacity and resources of the United Nations Secretariat. In the short to medium term, I would suggest that the priority should be to efficiently employ the naval resources of Member States and enhance regional cooperation. I encourage Member States to explore effective division of labour, in particular between those providing protective escorts to United Nations- and WFP-contracted vessels and those engaged in anti-piracy activities.

64. I would also encourage Member States to be cognizant of efforts undertaken in other forums which address the problem of piracy and armed robbery at sea against ships off the coast of Somalia. This will ensure a consistent approach to the issue.

65. The United Nations Secretariat will continue to perform an information coordination and liaison role, including its reporting obligations to the Security Council and the General Assembly. In this regard, I urge all Member States and regional organizations to keep the Secretariat focal point updated about the anti-piracy activities they are conducting in the region. I welcome the active role being played by IMO and relevant United Nations bodies and would encourage Member States and regional organizations to make full use of these forums.

66. I am deeply grateful to Member States and regional organizations for their efforts in combating piracy and armed robbery off the coast of Somalia and their assistance in the safe delivery of urgently needed humanitarian commodities to 2.4 million people in Somalia.